

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GS HOLISTIC, LLC,

Plaintiff,

v.

BARRETT & MITCHELL  
ENTERPRISES, INC., et al.,

Defendants.

CASE NO. C23-5227JLR

ORDER

Before the court is Plaintiff GS Holistic, LLC's ("GS Holistic") second motion for an extension of time to perfect service on Defendant Timothy Mitchell. (Mot. (Dkt. # 11); *see* 6/15/23 Order (Dkt. # 9) (finding that GS Holistic had not demonstrated good cause for its failure to serve Defendants Mr. Mitchell and Rozalynn Mitchell before the 90-day deadline set forth in Federal Rule of Civil Procedure 4(m) but nevertheless granting a 60-day extension of the service deadline).) The court GRANTS in part GS Holistic's motion.

1 Federal Rule of Civil Procedure 4 requires a plaintiff to serve the defendant with a  
2 summons and a copy of the complaint and sets forth the specific requirements for doing  
3 so. *See* Fed. R. Civ. P. 4. Rule 4(m), which provides the timeframe in which service  
4 must be effectuated, states in relevant part:

5 If a defendant is not served within 90 days after the complaint is filed, the  
6 court—on motion or on its own after notice to the plaintiff—must dismiss  
7 the action without prejudice against that defendant or order that service be  
made within a specified time. But if the plaintiff shows good cause for the  
failure, the court must extend the time for service for an appropriate period.

8 *Id.*

9 GS Holistic filed this action on March 16, 2023. (Compl. (Dkt. # 1).) As a result,  
10 Rule 4(m)'s 90-day deadline for effectuating service of process expired on June 14, 2023.  
11 Fed. R. Civ. P. 4(m). On June 15, 2023, the court granted GS Holistic's first motion for a  
12 60-day extension of the deadline to serve Mr. Mitchell and Ms. Mitchell, despite finding  
13 that GS Holistic had not demonstrated good cause for its failure to effectuate service  
14 before the Rule 4(m) deadline. (6/15/23 Order at 2-3.) The court ordered GS Holistic to  
15 file proof of service on Mr. Mitchell and Ms. Mitchell by no later than August 13, 2023,  
16 and warned GS Holistic that (1) failure to do so could result in dismissal without  
17 prejudice of its claims against Mr. Mitchell and Ms. Mitchell and (2) further extensions  
18 of the deadline to serve Mr. Mitchell and Ms. Mitchell would not be granted absent  
19 exceptional circumstances. (*Id.* at 2-3.)

20 GS Holistic served Ms. Mitchell on June 14, 2023, but has not yet served Mr.  
21 Mitchell. (*See* 7/7/23 Aff. (Dkt. # 10); Mot.) It represents that it performed skip traces  
22 and provided its process server with three addresses at which it could attempt to locate

1 Mr. Mitchell. (Mot. ¶ 3.) According to GS Holistic, its process server “received  
2 information at the home address that [Mr. Mitchell] is unknown.” (*Id.* ¶ 4.) GS Holistic  
3 does not, however, provide a declaration of non-service to substantiate when and how its  
4 process server attempted service. (*See id.*) GS Holistic represents that it is “trying to  
5 locate another address in the public records and with the Sheriff’s Office” but has not yet  
6 been successful in that endeavor. (*Id.* ¶ 5.) GS Holistic now asks the court to extend the  
7 Rule 4(m) deadline by an additional 60 days to allow it to perfect service on Mr. Mitchell  
8 “either personally or by publication.” (*Id.* ¶ 6.)

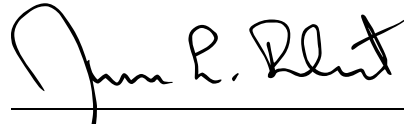
9       The court has reviewed the materials that GS Holistic filed in support of its second  
10 motion for an extension of time to perfect service and concludes that GS Holistic has not  
11 established exceptional circumstances, let alone good cause, that would justify a further  
12 extension of time. (*See* 6/15/23 Order); Fed. R. Civ. P. 4(m). In particular, the court  
13 notes that GS Holistic has not provided any substantiation of its efforts to serve Mr.  
14 Mitchell, such as declarations of non-service, or its efforts to locate Mr. Mitchell. (*See*  
15 *generally* Mot.) This lack of substantiation prevents the court from evaluating the efforts  
16 GS Holistic has made to serve Mr. Mitchell since the court issued its June 15, 2023 order.  
17 Nevertheless, the court will GRANT in part GS Holistic’s motion (Dkt. # 11) and extend  
18 the deadline for GS Holistic to perfect service on Mr. Mitchell for an additional **30** days.  
19 GS Holistic shall file proof of service on Mr. Mitchell by no later than **September 12,**  
20 **2023**. This order does not grant GS Holistic leave to serve Mr. Mitchell by publication or

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1 by any other means. Failure to timely file proof of service will result in the dismissal  
2 without prejudice of GS Holistic's claims against Mr. Mitchell. No further extensions of  
3 the deadline to serve Mr. Mitchell will be granted.

4 Dated this 22nd day of August, 2023.

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7 JAMES L. ROBART  
8 United States District Judge  
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